



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

ployed to considerable advantage. For example, the author's discussion of the early case of *Bush v. Steinman*<sup>1</sup> is excellent. He points out clearly that that case violated the simple rule of logic, that where one who lets a contract has no control over the employees of the contractor, he should not be treated as their master, but the independent contractor alone should be liable. The overthrow of the doctrine of this case is also ably developed. But for a summary of the present tendency regarding the doctrine, the author again refrains from original treatment, and quotes at great length from Mr. Labatt's valuable note to the case of *Salliotte v. Kingbridge Co.*<sup>2</sup>

The first half of Prof. Moll's book consists of an attempt to define independent contractors, and to differentiate them from agents and servants. The ground, of course, has been fully covered before. Prof. Burdick and numerous other authorities have made it quite clear that the decisive test is whether or not the employer had the *right to control* the conduct of the person doing the wrong. If he had, he is liable; otherwise, the rule of *respondeat superior* does not apply. If, in fine, the contractor represents the employer's will *only as to the result, and not as to the means*, he is an independent contractor and alone responsible for torts.

Prof. Moll apparently recognizes the soundness of this test (p. 19, 32, 37), for he quotes at great length from cases and from authors enunciating it. However, his own general statement of the rule (p. 18) is unsound.

The employer's "exceptional liability" for the torts of an independent contractor is made the subject of unusual classification by the author. He makes this exceptional liability depend, (1) on the character of the work, (2) on the character of the obligation, (3) on the conduct of the employer. Nothing seems gained by the adoption of this classification, and, in the writer's opinion, the value of the work for ready reference is thereby considerably impaired.

The index is excellent and the table of cases particularly full and complete. Cross-citations are employed and reference is made not only to the official series, but to the leading case-books and unofficial compilations, as well.

The book, as a whole, shows that the author is familiar with all of the case-law and, in fact, with all of the literature on his subject. It, therefore, seems particularly unfortunate that so little originality is demonstrated. The expression of the author's own views and a statement in the author's own language of the different principles, would have rendered Prof. Moll's book not only more valuable, but more refreshing and interesting as well. As it stands, it is a mere compilation of usually carefully chosen excerpts from cases and from leading authorities, sparsely interspersed with a few original sentences from the learned author,—exhibiting much erudition, which, alas, has in large measure gone to waste.

I. M. W.

CORPORATIONS. By J. S. RUMSEY. Albany: BANKS & Co. 1909. pp. 810.

This book contains, in addition to the New York Consolidated Corporation Laws, the text of the Rapid Transit Act, the Tax Law relating to corporations, Condemnation Law, General Construction

<sup>1</sup>(1799) 1 B. & P. 404.

<sup>2</sup>(1903) 65 L. R. A., 620, 631-2.

Law and sections of the Code of Civil Procedure and Penal Law relating to corporations. It is constructed substantially on the same plan as White on Corporations, but as it is not much over half the size of the latter, it naturally does not cover the ground so thoroughly. In addition to the corporation laws contained in White's book, Mr. Rumsey gives us the text of the Membership Corporation Law and Religious Corporation Law, but there are no annotations or citations of any kind under the Religious Corporation Law and only meagre citations and annotations under the Membership Corporation Law; and in general, the citations and annotations under the various sections of all the laws are neither so many nor so full as in White's treatise. On the other hand, it does not contain some matter which appears in White's book, United States Corporation Tax, Stock Transfer Tax Law and State Comptroller's rulings relative thereto, Sherman Anti-Trust Law and some miscellaneous provisions. It has twenty-four pages of forms as against three hundred and twenty-eight pages in White's.

On page 19, *People ex rel. Cotton Oil Company v. Roberts*,<sup>1</sup> is incorrectly cited as authority for a proposition which it condemns. On page 142, there is a misleading statement as to one of the propositions supported by *Holmes & Griggs Mfg. Co. v. Holmes & Wessell M. Co.*,<sup>2</sup> resulting from the omission of the word "all" after "the consent of" and before "stockholders." On page 145, the general statement under Section 55 of the Stock Corporation Law, together with the citations, is very meagre and unsatisfactory as compared with White's treatment of the same section. The same may be said of the general statement and citations under Section 56 of the Stock Corporation Law. On page 151, in connection with *Page v. American and B. Mfg. Co.*,<sup>3</sup> the statement is made: "The court intimated that it is within the power of the legislature to change the relative voting power of stock." The writer fails to find any such intimation. The court stated that it would be competent for the legislature to provide with respect to corporations to be organized in the future that the common or preferred stock might be separately reduced without impairing the rights of stockholders, but this is an entirely different question. On the whole, the book under review gives one the impression of having been hastily prepared and it does not seem to satisfy any need not already provided for by either White's treatise or Birdseye's Cumming and Gilbert's Consolidated Laws. It sells, however, for one dollar less than White's book and is more handy in size, consisting of 780 pages as against White's 1408, but these are the only two points of advantage to commend it.

G. F. C.

AN INDEX-DIGEST OF DECISIONS UNDER THE FEDERAL SAFETY APPLIANCE ACTS. By OTIS BEALL KENT. Washington: GOVERNMENT PRINTING OFFICE. 1910. pp. ii, 294.

This little book, of less than three hundred pages, is just what its title indicates,—an Index-Digest of Decisions under the Federal Act of March 2, 1893,<sup>1</sup> as amended by Act of April 1, 1896,<sup>2</sup>

<sup>1</sup>(N. Y. 1898) 25 App. Div. 13.

<sup>2</sup>(1892) 127 N. Y. 252.

<sup>3</sup>(N. Y. 1908) 129 App. Div. 346.

<sup>1</sup>27 Stat. L., 535.

<sup>2</sup>29 Stat. L., 85.